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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/557,693	04/25/2000	James D. McCarten		8544

7590 09/25/2003
Johnson & Stainbrook LLP
3550 Round Barn Blvd
Suite 203
Santa Rosa, CA 95403

EXAMINER

TRAN A, PHI DIEU N

ART UNIT	PAPER NUMBER
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3637

DATE MAILED: 09/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/557,693

Applicant(s)

MCCARTEN, JAMES D.

Examiner

Phi D A

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 24-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 24-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 27, 29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 27 "said center connector" is lacking antecedent basis.

Claim 29 is depended upon a cancel claim 13. The claim is examined as best understood to be depended upon claim 24 instead.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 24-25, 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Langford et al (4677796).

Langford et al (figures 1-3) shows a strutless building module having a polygonal member having a center, an exterior surface, an interior surface, a plurality of substantially flat sides (56), a lower edge, a plurality of faces (48) each one of which has an outer edge intersecting one of said sides and inclines upwardly from said side to converge at substantially the center of said polygonal member, each side including a connection means (88) for joining at

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least one angled side of each module to the at least one angled side of an adjacent module, a center connector(16) disposed to said center of said polygonal member and providing means for suspending the module from an overhead hoist (could be adapted to connect to an overhead hoist), each of the angled sides depends downwardly from the exterior surface of the polygonal member at an angle in the range of 64 to 74 degrees (appears so, see figure 1), each of the faces is inclined upwardly from its outer edges to the center of the module at an angle in the range of eight to eighteen degrees (appears so from the drawing).

3. Claims 24-28, 31 are rejected under 35 U.S.C. 102(b) as being anticipated by Preissler(3827200).

Preissler (figures 1-5) shows a strutless building module having a polygonal member having a center, an exterior surface, an interior surface, a plurality of substantially flat sides, a lower edge, a plurality of faces each one of which has an outer edge intersecting one of said sides and inclines upwardly from said side to converge at substantially the center of said polygonal member, each side including a connection means (15-17) for joining at least one angled side of each module to the at least one angled side of an adjacent module, a center connector(53) disposed to said center of said polygonal member and providing means for suspending the module from an overhead hoist (could be adapted to connect to an overhead hoist), each of the angled sides depends downwardly from the exterior surface of the polygonal member at an angle in the range of 64 to 74 degrees (appears so, see figure 1), each of the faces is inclined upwardly from its outer edges to the center of the module at an angle in the range of eight to eighteen degrees (appears so from the drawing), the center connector having a center connecting bolt (53), a center connecting washer (52) positioned over the bolt, the center connecting bolt depending

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downwardly from the interior surface of the module when the module is laid flat on its lower edge, the bolt being integrally formed into the polygonal member (once installed), a disc member (51) being substantially circular and concentric with center connector washer, the disc having a convex side and a concave side, the convex side in approximation with the interior surface of the module (only has to be close by).

4. Claims 24, 31-32 are rejected under 35 U.S.C. 102(b) as being anticipated by Ernest (595875).

Ernest shows a strutless building module having a polygonal member having a center, an exterior surface, an interior surface, a lower edge, a plurality of substantially flat angled sides (figure 15), a plurality of faces each one of which has an outer edge intersecting one of the sides and inclined upwardly from the side so that a plurality of faces converge in a point at substantially the center of the polygonal member, each of the angles sides including connection means (figure 15) for joining at least one angled side of each module of the dome structure to at least one angled side of an adjacent module, a center connector (figure 18) disposed in the center of the member and providing means for suspending the module from an overhead hoist (inherently capable of being adapted to do so), a disc (T, figure 1) being substantially circular and concentric with center connector washer, the disc having convex side and a concave side, the convex side in approximation with the interior surface of the module, the disc member having a circumference that engages the sides of the module.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 29-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Preissler.

Preissler shows all the claimed limitations except for the polygonal member being pentagonal, or hexagonal.

It would have been obvious to one having ordinary skill in the art to modify Preissler to show the polygonal member module being pentagonal because hexagonal, pentagonal, decagonal, rectangular are all well-known shapes for a panel module.

7. Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ernest in view of Feldman.

Ernest shows all the claimed limitations except for the disc member being fabricated from polarized transparent material.

Feldman shows a disc being made from polarized transparent material.

It would have been obvious to one having ordinary skill in the art to modify Ernest to show the disc being made from polarized transparent material as taught by Feldman because it would enhance the viewing areas per more sun light in Ernest's structure.

Response to Arguments

8. Applicant's arguments with respect to claims 24-33 have been considered but are moot in view of the new ground(s) of rejection.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 703-306-9136. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

A handwritten signature in black ink, appearing to read 'Phi Dieu Tran A', with a large, stylized loop at the end.

Phi Dieu Tran A
September 22, 2003